

EX PARTE OR LATE FILED

3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202)424-7500
FACSIMILE 0

March 14, 2001

MAR 14 2001

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals - TW-A325
445 Twelfth Street, S.W.
Washington, DC 20554

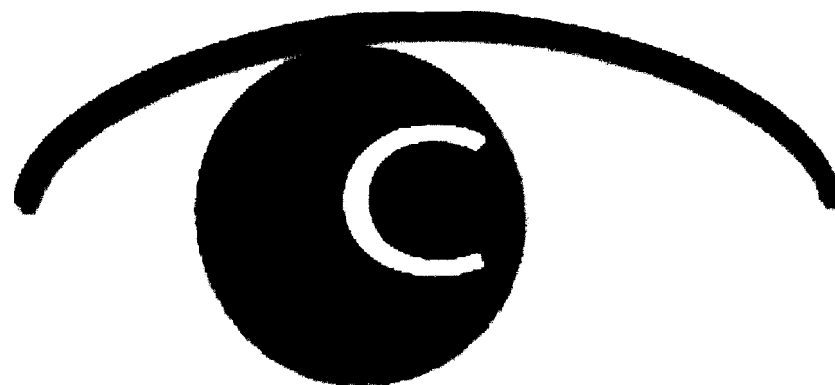
Dear Ms. Salas:

Two copies of this letter are attached.

Pat

cc: Kyle Dixon
Jordan Goldstein
Linda Kinney
Debra Weiner
Paula Silberthau

No. of Copies rec'd 012
1. ABC DE



CBEYOND COMMUNICATIONS

Julia O. Strow
Vice President - Regulatory
CC Docket No. 96-98
March 13, 2001



Company Overview

Cbeyond Communications is a Broadband Applications Service Provider (BASP)

Initial service offering is local and long distance voice and Internet-based applications - - Cbeyond will provide “big business tools” to small business customers

Cbeyond is a facilities-based service provider with “smartest” build network deployment strategy - - will utilize unbundled loops and collocations in addition to a complementary EEL strategy

Cbeyond will begin offering service in March, 2001 to customers in Atlanta - - orders for new EEL combinations and collocation space in progress

Cbeyond's target customer is 5 to 25 lines



Cbeyond Local Switching Position

The pro-competitive policies of the FCC have served to foster facilities-based innovation - - innovation that has continued to place pressure on competitors to serve customers with lower line counts in a cost effective manner

Cbeyond is entering the market to serve customers with 5 to 25 lines - -
Cbeyond's base package is a five line package

Cbeyond exemplifies that the Commission's policies have worked to drive the number of lines that can be served by CLECs lower and lower - - two years ago CLECs could not cost effectively serve customers below 15 lines

Raising the number of lines would not provide the proper incentives for local competition as facilities-based CLECs would be discouraged from investing in more efficient networks if UNE-P could be used to serve small business customers with greater than four lines



Cbeyond Local Switch Position

Cbeyond supports the recent proposal of Allegiance Telecom on this issue

A residential/business split is justified as there is no impairment to serving even the smallest of business customers

Any MSA that meets the switching test proposed by Allegiance should be given the local switching carve out option

If the collocation standard proposed by Allegiance is adopted, Cbeyond supports grandfathering those MSAs where incumbent LECs have elected the switching carve out under the existing rules



Cbeyond Position on EELs

THE VOLUNTARY EEL CONDITION SHOULD BE MAINTAINED

EELs promote facilities-based competition by expanding the market reach of a facilities-based CLEC

Greater market reach allows CLECs to serve customers that would not otherwise be served

New EELs remove the operational and financial barriers to entry that are created by the conversion of special access to EELs - - more importantly new EELs prevent the potential for customer service disruption that may occur during the conversion process

Because the EEL is a voluntary condition, there is no conflict with current law

Premature to conclude that special access conversions are a sufficient substitute for the voluntary EEL condition.



Conclusion

The Commission should expand the switching carve-out rule to include any MSA that meets the 4 switch test proposed by Allegiance Telecom

The Commission should not, and may not under the “impair” test, raise the four line threshold given the evidence that facilities based competitors are serving customers with as few as five lines

The Commission should maintain the voluntary EEL condition

If the voluntary EEL provision is not maintained, ILEC non-compliance with the FCC’s rules on special access conversions to EELs must be dealt with expeditiously to insure that conversions are a realistic and viable alternative